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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,707	08/18/2003	Laurent A. Regimbal	10011453-3	4368
7590	08/18/2004		EXAMINER	
HEWLETT-PACKARD COMPANY			LEE, SUSAN SHUK YIN	
Intellectual Property Administration			ART UNIT	PAPER NUMBER
P.O. Box 272400				2852
Fort Collins, CO 80527-2400				

DATE MAILED: 08/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/642,707	REGIMBAL, LAURENT A.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Susan S. Lee	2852	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 03 June 2004.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-5, 7, 10, 12-14 and 16-23 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-5, 7, 10, 12-14, 16-23 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1)  Notice of References Cited (PTO-892)                    4)  Interview Summary (PTO-413)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)                    Paper No(s)/Mail Date. \_\_\_\_\_.  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5, 7, 10, 12-14, 16-20, 22, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nagayama et al. (5,164,782) in view of Wayman et al. (5,887,235).

Nagayama et al. discloses an electrophotographic copying apparatus with a fixing device 26 with an upper heat roller 28 containing a heater lamp 28a, a lower heat roller 29, and a fixing film 30 driven in a the form of belt that stretches between the upper heat roller 28, a film-feeding roller 32, and feeding roller 31. The fixing device 26 is used to fix a toner image with heat onto a transfer paper. Note column 5, line 9 – column 6, line 18. The film-feeding roller 32 is driven by a roller driver 36, to be shifted upward from the position illustrated in Fig. 3 to that shown in Fig. 4 that reads on the instant invention's first roller being movable with respect to the print path along a direction transverse to the print path. The feeding roller 31 reads on the instant invention's "second roller" and is fixed according to both Figs. 3 and 4. Roller 28 reads on the instant invention's "third roller". The position illustrated in Fig. 3 is used for color copying and the position illustrated in Fig. 4 is for black-and-white copying. Another embodiment of the invention is shown in Fig. 8 discloses a heat roller 50, film belt 52, a

tension spring 54, a guide 57, a controller 61 for driving the movable member 59 along the guide 60 so that roller 55 on which the film belt 52 is applied is urged by the tension spring 54 with the roller 58 as a fulcrum in the direction of increasing the distance from the heat rollers 50 and 51 and the guide 57. Note column 9, line 50 – column 11, line 3. As to the instant invention's print path being "selectively adjustable within a range", both embodiments of Nagayama et al. discloses a range such as in the first embodiment, at one point of the range is located at the position of the belt or film 30 as shown in Fig. 3 and at another point of the range is located at the position of the belt or film 30 as shown in Fig. 4. The second embodiment shows at one point of the range is located at the position of the belt 52 as shown in Fig. 8 shown in solid lines and at another point of the range is located at the position of the belt 52 as shown in Fig. 8 shown in pointed chain line (note column 9, lines 32-41). Both embodiments show that the length of the belt portion adjacent to the print path is selectively adjustable since the first embodiment is selective between a color copying mode and a black-and-white mode. The second embodiment shows that the print path is selective between a highly glossy copy to be made such as from full color copying (shown as solid line in Fig. 8) and a less glossy copy to be made such as from black-and-white copying (shown as pointed chain line in Fig. 8). As shown in Figs. 3 and 4, heat lamp 28a reads on the instant invention's "heater is incorporated in a roller" and heat lamp 29b reads on the instant invention's "heater is located outside of a belt".

Nagayama et al. differs from the instant invention by not disclosing an amount of thermal energy transmitted to the print media traveling along the print path is adjustable.

Wayman et al. discloses a fusing apparatus with a belt 52 entrained about fuser rollers 56 and 58 as well as a stripping roller 60, and an idler roller 69. A final support material 31 carrying toner images 74 is delivered to the fusing station 41 for fixing the toner images through a fusing zone 73 and then through a pre stripping segment 72. The power source 78 is designed to supply variable power to the pre stripping segment 72 under control of the controller 80 such that the toner images are subjected to various stripping temperatures for the purpose of varying the image gloss of the final print.

Note column 5, line 8 – column 6, line 37.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Nagayama et al. with that of Wayman et al. so that the finished print's glossiness can be varied.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Nagayama et al., as modified by Wayman, as applied to claims 1-5, 7, 10, 12-14, 16-20, 22, and 23 above, and further in view of Yoneda et al. (5,752,148).

Nagayama et al., as modified by Wayman, differ from the instant invention by not showing the heater is separated from a roller.

Yoneda et al. discloses a fixing belt 5 with a heating means 15a that is separated from rollers 33a and 31. Note column 4, lines 40-61.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Nagayama et al. in view of Wayman with that of Yoneda et al. so that reduction of standby time required to reach a suitable fixing temperature can be obtained (note Yoneda et al., column 2, lines 33-35).

***Response to Arguments***

Applicant's arguments filed 6/3/04 have been fully considered but they are not persuasive. Applicant argues that the cited references, Nagayama in view of Wayman et.al., do not disclose the length of the belt adjacent the print path is "selectively adjustable within a range". Examiner disagrees with this. Nagayama discloses two points of the position of belt 30 (Figs. 3 & 4) or belt 52 (Fig. 8) is in a range. These two points are selective between a color copying mode and a black-and-white mode in the first embodiment (Figs. 3 and 4). In another embodiment, the two points are selective between a highly glossy copy (full color) and a less glossy copy (black-and-white). These points are in a range, thus these two embodiments read on the instant invention's "a length of said belt portion adjacent the print path being selectively adjustable within a range". The Webster's Ninth New Collegiate Dictionary (copyright 1990 by Merriam-Webster Inc, page 1355) defines the word "within" as "not beyond the quantity, degree or limitations". Thus, anywhere in this range would read on the instant invention's claimed limitations "within a range" including the two points. The range disclosed by Nagayama is deemed to be inclusive of these two points, therefore these two points are within the range because they are not beyond the quantity, degree, or limitations of the range. Since applicant's claimed language do not exclude this interpretation, the arguments are not found persuasive. Applicant continues to argue that the belt has "several different positions" as stated in the specification. In response to this, it is noted that the features upon which applicant relies (i.e., "several different positions") are not recited in the rejected claim(s). Although the claims are interpreted

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in light of the specification, limitations from the specification are not read into the claims.

See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan S. Lee whose telephone number is 571-272-2137. The examiner can normally be reached on Mon. - Fri., 10:30-8:00, Second Monday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Art Grimley can be reached on 571-272-2136 or 571-272-2800 (Ext. 52). The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Susan S. Lee  
Primary Examiner  
Art Unit 2852

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